



PATENT
514413-3550.1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Wolf-Bern Frommer
Serial No. : 09/854,774
Filed : May 14, 2001
For : DNA SEQUENCES FOR AN AMINO ACID TRANSPORTER,
PLASMIDS, BACTERIA, YEASTS AND PLANTS
CONTAINING A TRANSPORTER AND THEIR USE
Examiner : R. Kallis
Group Art Unit : 1638


745 Fifth Avenue, New York, NY 10151

EXPEDITED PROCEDURE
RESPONSE AFTER FINAL ACTION
UNDER 37 C.F.R. 1.116

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: **Mail Stop AF Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450**, on the date shown below.

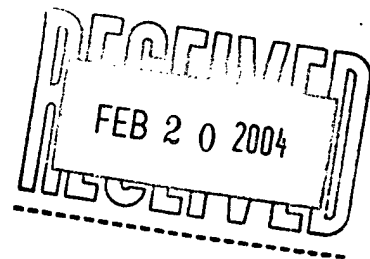
Marilyn Matthes Brogan, Reg. No. 31,223

Name of Applicant, Assignee or Registered Representative


Signature

February 12, 2004

Date of Signature



TERMINAL DISCLAIMER

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in further response to the August 12, 2004 Office Action, with an Amendment After Final Office Action under 37 C.F.R. 1.116 filed herewith.

I, Marilyn Matthes Brogan, declare that I am the attorney of record and that I am authorized to execute terminal disclaimers on behalf of Hoechst Schering Agrevo GmbH ("Hoechst"), the assignee of the above-captioned application ("the present application") and of U.S. Patent Nos. 5,719,043 ("the '043 patent") and 6,245,970 ("the '970 patent"), now Bayer CropScience ("Bayer");

That Hoechst is the assignee of the entire right, title and interest in, to and under the present application, U.S. application Serial No. 09/854,774, as a divisional of U.S. application Serial No. 08/964,939, filed on November 5, 1997, now U.S. Patent No. 6,245,970, which is a divisional of U.S. application Serial No. 08/362,512, filed on January 5, 1995, now U.S. Patent No. 5,719,043, by virtue of the assignment from the inventors to Hoechst, recorded at the U.S. Patent and Trademark Office on January 5, 1995, and set out at Reel 7347 and Frame 080;

That Hoechst underwent a Change of Name from Hoechst Schering Agrevo GmbH to Aventis CropScience N.V. to Bayer CropScience N.V. (copy of documents attached);

That Bayer has a place of business at Jozef Plateastraat 22, B-9000, Gent, Belgium;

That Bayer hereby disclaims the terminal part of any patent granted on the present application which would extend beyond the expiration date of the full statutory term of the '043 or '970 patents;

That Bayer hereby agrees that any patent so granted on the present application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to the '043 and '970 patents, this agreement to run with any patent granted on the present application and to be binding upon the grantee, its successors or assigns;

That no terminal part of any patent granted on the present application is disclaimed prior to the full statutory term of the '043 or '970 patents, in the event that either of said '043 or '970 patents earlier expire for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or is terminally disclaimed under 37 C.F.R. §1.321(a), has all claims cancelled by a reexamination certificate, or is otherwise terminated prior to expiration of its full statutory term, except for the separation of legal title stated above;

In accordance with 37 C.F.R. § 3.73(b), the undersigned attorney of record, empowered to sign this Statement on behalf of the assignee, states that Hoechst, is the assignee of the entire right, title and interest in the patents and patent application identified above (the '043 patent, the '970 patent and the present application) by virtue of the assignment identified above, and that Hoechst is now Bayer;

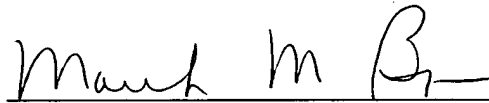
And thus, that the undersigned has reviewed documents in the chain of title of the patent and patent application identified above and, to the best of the undersigned's knowledge and belief, title is in the assignee identified above.

Reconsideration and withdrawal of the double patenting rejection are respectfully requested and consideration, entry and recordation of this Terminal Disclaimer are also earnestly solicited, with any fee therefor or any overpayment in such fees, to be charged or credited to Deposit Account No. 50-0320.

It is also noted that this paper is being provided merely to expedite prosecution and is presented without admission, without prejudice, without surrender of subject matter, without any intention of creating any estoppel as to equivalents.

Respectfully submitted,
FROMMER LAWRENCE & HAUG LLP

By:

A handwritten signature in black ink, appearing to read "Marilyn M Brogan", written over a horizontal line.

Marilyn Matthes Brogan
Reg. No. 31,223
Tel 212-588-0800